

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RAQUELLE DEFELICE,
Plaintiff

vs.

THONG V. NGUYEN,
Defendant

CIVIL ACTION NO. 05-30198-MAP

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FILE
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U.S. DISTRICT C.
DISTRICT OF MA

ANSWER AND CLAIM FOR JURY TRIAL BY THONG V. NGUYEN

FIRST DEFENSE

1. The defendant denies the allegations contained in paragraph 1 of the plaintiff's complaint.
2. The defendant denies the allegations contained in paragraph 2 of the plaintiff's complaint.
3. The defendant denies the allegations contained in paragraph 3 of the plaintiff's complaint.
4. The defendant is without sufficient information to admit or deny the allegations contained in paragraph 4 of the plaintiff's complaint.
5. The defendant admits the allegations contained in paragraph 5 of the Plaintiff's Complaint.

SECOND DEFENSE

6. The defendant is without sufficient information to admit or deny the allegations contained in paragraph 6 of the plaintiff's complaint.

7. The defendant admits the allegations contained in paragraph 7 of the Plaintiff's Complaint.

THIRD DEFENSE

8. The defendant denies the allegations contained in paragraph 8 of the plaintiff's complaint.
9. The defendant denies the allegations contained in paragraph 9 of the plaintiff's complaint.
10. The defendant denies the allegations contained in paragraph 10 of the plaintiff's complaint.
11. The defendant denies the allegations contained in paragraph 11 of the plaintiff's complaint.
12. The defendant denies the allegations contained in paragraph 12 of the plaintiff's complaint.
13. The defendant denies the allegations contained in paragraph 13 of the plaintiff's complaint.
14. The defendant denies the allegations contained in paragraph 14 of the plaintiff's complaint.
15. The defendant denies the allegations contained in paragraph 15 of the plaintiff's complaint.

AFFIRMATIVE DEFENSES

16. The injuries and damages alleged were caused in whole or in part by the plaintiff's own negligence, and any recovery awarded the plaintiff must be reduced and diminished in accordance with M.G.L.c. 231 Section 85.
17. The plaintiff's own negligence exceeded any negligence attributable to the defendant, and the plaintiff is therefore barred from recovery.
18. At the time of the alleged incident or event upon which the plaintiff's claim is based, the plaintiff was guilty of a violation of law which contributed to the alleged accident or event and which precludes any recovery by the plaintiff.
19. The plaintiff is not entitled to maintain this action under the provisions of M.G.L.c. 231 Section 6D, and M.G.L.c. 90 Sections 34A and 34M.
20. The damages or injuries alleged in the plaintiff's complaint were not caused by any person or entity over whom the defendant exercised control or for whom the defendant was responsible.
21. The occurrence from which the plaintiff's complaint arose was caused by acts of vis major which were not attributable in any degree to the conduct of the defendant and not reasonably preventable by human foresight, strength or care.
22. The Complaint of the plaintiff fails to state a cause of action for which relief may be granted and must therefore be dismissed.

THE DEFENDANT DEMANDS A TRIAL BY JURY.

THE DEFENDANT

By _____

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and Murphy, P.C.
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CERTIFICATE OF SERVICE

I, L. Jeffrey Meehan, Esquire, counsel of record, hereby certify that I made service of the foregoing document by mailing a copy of same, postage prepaid, on October 31, 2005 to:

Alan R. Goodman, Esq.
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